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August 16, 2005

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Re: Application No.: 10/789,280
Confirmation No.: 8196
Art Unit: 2876
Appellants: Jon Washington, et al.
Title: ATM Currency Cassette With
Electronic Combination Lock
Docket No.: D-1209

Sir:

Please find enclosed the Appeal Brief of Appellants pursuant to 37 C.F.R. § 41.37 for filing in the above-referenced application.

Please charge the fee required with this filing (\$500) and any other fee due to Deposit Account 09-0428.

Very truly yours,

Ralph E. Jocke
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D-1209

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of)	
Jon Washington, et al.)	
)	
Application No.: 10/789,280)	Art Unit 2876
)	
Confirmation No.: 8196)	
)	
Filed: February 27, 2004)	Patent Examiner
)	Steve Paik
)	
Title: ATM Currency Cassette With)	
Electronic Combination Lock)	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

BRIEF OF APPELLANTS PURSUANT TO 37 C.F.R. § 41.37

Sir:

The Appellants hereby submit their Appeal Brief pursuant to 37 C.F.R. § 41.37 concerning the above-referenced Application. This Appeal Brief is in response to the Office Actions dated April 5, 2005 and June 6, 2005.

08/19/2005 WABDELRI 00000077 090428 10789280
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(i)

REAL PARTY IN INTEREST

The Assignee of all right, title and interest to the above-referenced Application is
Diebold, Incorporated, an Ohio corporation.

(ii)

RELATED APPEALS AND INTERFERENCES

Appellants, Appellants' legal representative, and assignee believe that there are no related appeals or interferences pertaining to this matter.

(iii)

STATUS OF CLAIMS

Claims 1 and 45-63 are pending in the Application.

Claims rejected: 1 and 45-63

Claims allowed: none

Claims confirmed: none

Claims withdrawn: none

Claim objected to: none

Claims canceled: 2-44

Appellants appeal the rejections of claims 1 and 45-63, inclusive. These rejections were in the Office Action ("Action") dated April 5, 2005, which was made Final.

(iv)

STATUS OF AMENDMENTS

A final rejection was made April 5, 2005. A Request for Reconsideration (without claim amendment) was filed May 2, 2005 in response to the final rejection. No claim amendments were requested to be admitted after the final rejection. The Advisory Action dated June 6, 2005 indicates that the Request for Reconsideration was considered and will be entered for purposes of appeal.

(v) **SUMMARY OF CLAIMED SUBJECT MATTER**

Concise explanations of exemplary forms of the claimed invention:

For reasons of brevity, claim language may be referred to herein in a shortened version. For example, language such as "at least one" may be simply referred to as "a." Any generalized statement herein is not to limit any of the mentioned claims in any manner. Please refer to the specific claim for the exact claim language.

With respect to independent claim 1

An exemplary form of the invention is directed to an apparatus. For example, note Figures 31-35 (e.g., Specification page 60, line 1 to page 63, line 8). The apparatus includes a cassette (326) that is adapted for use in an automated banking machine chest with a chest lock that controls access to the chest (e.g., page 29, line 16 to page 30, line 2; page 34, lines 10-17). The cassette is operative to hold media therein (e.g., page 2, line 3; media cassette 208). The cassette also includes a lock having a movable locking member (340) that is movable between a locked position and an unlocked position (e.g., page 60, lines 8-12). With the locking member (340) in the locked position the cassette is prevented from being opened, whereas with the locking member in the unlocked position the cassette can be opened. The cassette further includes a keypad (328). The apparatus further includes an electronic lock control (328, 338) that is operative to control movement of the locking member (340) (e.g., page 60, lines 10-12 and 21-22; page 62, lines 7-11). The electronic lock control includes the keypad (328) which is operative to receive user input to move the locking member (340) to the unlocked position.

With respect to independent claim 49

Another exemplary form of the invention is directed to an apparatus. Support in the disclosure for similar claim language has previously been provided. The apparatus includes a cassette (326) adapted for use in an automated banking machine. The cassette (326) is operative to hold media therein. The cassette (326) includes a lock having a movable locking member (340) being movable between a locked position and an unlocked position. With the locking member (340) in the locked position the cassette is prevented from being opened, whereas with the locking member in the unlocked position the cassette can be opened.

The apparatus further includes an electronic lock control (328, 338) that includes an electronic programmable combination receiving member (e.g., keypad 328) (e.g., page 60, lines 5-15). The combination receiving member (328) is operative to receive a lock combination comprising a sequence of inputs (e.g., page 60, lines 21-22). The electronic lock control is operative to move the locking member (340) to the unlocked position responsive to the combination entered into the combination receiving member (328) (e.g., page 62, lines 7-11). The electronic lock control is also operative to receive input via the combination receiving member (328) to change the lock combination (e.g., page 60, lines 3-4 and 13-15; page 61, lines 7-10).

With respect to independent claim 58

Another exemplary form of the invention is directed to a method. Support in the disclosure for similar claim language has previously been provided. The method includes providing an automated banking machine media cassette (326) that is adapted for use in an

automated banking machine chest having a chest lock that controls access to the chest. The cassette (326) includes a lock (340) and an electronic lock control (328, 338) (e.g., page 60, lines 5-15). The electronic lock control (328, 338) is operative to control unlocking of the cassette (326). The method also includes receiving with the electronic lock control (e.g., keypad 328) an inputted lock combination (e.g., page 60, lines 13-15). The method further includes unlocking the cassette (326) responsive to the inputted combination (e.g., page 60, lines 21-22).

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- 1). Whether claims 1, 45-49, and 53-62 are unpatentable pursuant to 35 U.S.C. § 103(a) over Black (US 6,786,354) in view of McGunn (US 6,724,303).
- 2). Whether claims 50-52 and 63 are unpatentable pursuant to 35 U.S.C. § 103(a) over Black in view of McGunn and Kuel (GB 2,202,066).

(vii)

ARGUMENT

The Applicable Legal Standards

Before a claim may be rejected on the basis of obviousness pursuant to 35 U.S.C. § 103, the Patent Office bears the burden of establishing that all the recited features of the claim are known in the prior art. This is known as *prima facie* obviousness. To establish *prima facie* obviousness, it must be shown that all the elements and relationships recited in the claim are known in the prior art. If the Office does not produce a *prima facie* case, then the Appellants are under no obligation to submit evidence of nonobviousness. MPEP § 2142.

The teaching, suggestion, or motivation to combine the features in prior art references must be clearly and particularly identified in such prior art to support a rejection on the basis of obviousness. It is not sufficient to offer a broad range of sources and make conclusory statements. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Even if all of the features recited in the claim are known in the prior art, it is still not proper to reject a claim on the basis of obviousness unless there is a specific teaching, suggestion, or motivation in the prior art to produce the claimed combination. *Panduit Corp. v. Denison Mfg. Co.*, 810 F.2d 1561, 1568, 1 USPQ2d 1593 (Fed. Cir. 1987). *In re Newell*, 891 F.2d 899, 901, 902, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

Evidence of record must teach or suggest the recited features. An assertion of knowledge and common sense not based on any evidence in the record lacks substantial evidence support. *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001). Patentability determination must be based on evidence of record. *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

It is respectfully submitted that the Action requiring appeal does not meet these burdens.

**The Claims Are Not Obvious Over
Black in view of McGunn**

Claims 1, 45-49, and 53-62 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Black in view of McGunn.

The (final) Action alleges that Black teaches a media cassette (10) for use in an ATM, and that the cassette has a locking member (i.e., latch 16). The Office relies on the website dictionary.com in an attempt to redefine a latch as being "a lock to secure items stored inside a chest." The Action asserts that "a latch is a movable locking member preventing a chest from being opened when it is in the locked position." The Action nevertheless admits that Black does not teach or suggest that the alleged locking member (16) is controlled by an electronic lock control.

The Action relies upon McGunn as allegedly teaching a safe having an electronic lock system (100) comprising a keypad (224), a control circuit (220), and a display (223).

The Action then alleges that it would have been obvious to "employ an electronic locking system . . . to the media cassette of Black . . . for the purposes of allowing its users remote access." As shown in more detail herein, the Appellants respectfully disagree with the interpretation and application of Black and McGunn.

Appellants traverse the rejections on the grounds that Appellants' claims recite features and relationships which are neither disclosed nor suggested in the prior art, and because there is no teaching, suggestion, or motivation cited so as to produce Appellants' invention. Nor do the references teach or suggest the desirability of the combination. *In re Mills*, 916 F.2d 680, 16

USPQ2d 1430 (Fed Cir. 1990). The features and relationships recited in Appellants' claims patentably distinguish over the applied references.

The rejections, which lack the necessary evidence and rationale, are based on knowledge gleaned only from Appellants' own novel disclosure. It follows that the rejections are based solely on hindsight reconstruction of Appellants' claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

The Office has not established a *prima facie* showing of obviousness. Additionally, it would not have been obvious to one having ordinary skill in the art to have combined the references as alleged to have produced the recited invention. There is no teaching, suggestion, or motivation in the applied references to modify Black in view of McGunn to produce the recited invention. Even if it were somehow possible (which it isn't) to modify Black with the teaching of McGunn as alleged, the record still would not factually support a *prima facie* conclusion of obviousness. Thus, Appellants respectfully submit the rejections are improper and should be withdrawn.

The dictionary.com Reference Does Not Constitute Prior Art

The relied upon reference that allegedly defines "chest," "box," and "latch" is dated 2005. However, Appellants' application was filed February 27, 2004 and claims priority to December 31, 2002. Thus, the relied upon teaching of the reference (allegedly obtained from a dictionary.com website) does not constitute prior art against the recited invention. As the relied

upon teaching does not constitute prior art against Appellants' invention, the rejections relying thereon (which include all the art rejections) are not valid.

Appellants Provide Evidence Refuting The Alleged dictionary.com Teaching

Appellants traverse the Office's attempt to expand the definition of "latch" to always consist of a lock. Conversely, the definition of "latch" by Merriam-Webster OnLine Dictionary (copy provided in the Evidence Appendix) teaches away from a "latch" constituting a "lock." Additionally, the Office's own classification definitions (e.g., class 292 directed to closure fasteners) teach that there are latching devices without lock structure. Class 292 at "Section I - Class Definition" (December 2000 edition) specifically states that "This class includes all bolt and *latching* devices, *not combined with lock structure*, for securing in closed or adjusted position any closure element, such as a door, window, gate, trunk-lid, box-cover, bag-frame, or the like." That is, the Office itself concludes that a latch is not required to comprise a lock or a locking feature.

The Examiner confuses "latch" with "lock." One having ordinary skill in the art would understand that a "latch" differs from a "lock," especially in the well-known example of a simple gate latch (being continually openable). Another example is a conventional door, where the door may be fastened in a closed position by a latch (in the door handle) but not necessarily locked. If the latch always locked a closed door then there would be no need for one to additionally perform the separate act of locking the door. Again, the Office's own definition of latch refutes the Examiner's assertion that a latch always constitutes a lock. For these reasons it follows that the Examiner's assertion is not based on any evidence of record. *In re Zurko*, 258 F.3d 1379, 59

USPQ2d 1693 (Fed. Cir. 2001). *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002).

Thus, the rejections (which rely on the assertion) are not valid.

Claim 1

The Action admits that Black does not teach or suggest an electronic lock control for controlling movement of a locking member, especially a cassette locking member. Appellants respectfully submit that Black lacks more of the recited features and relationships than the Action actually admits. For example, claim 1 recites a cassette having a *lock*. Black makes no mention of a cassette lock. Black has a simple latch (16).

Claim 1 recites that the cassette *lock* includes a movable locking member that is *movable* between a locked position and an unlocked position such that in the locked position the cassette is *prevented* from being opened. The Office has presented no evidence that Black's latch (16) constitutes the movable locking member of a *lock*. Nor does Black teach or suggest that the latch (16) prevents (locks) the cassette (10) from being opened.

The Office hasn't even presented any evidence that Black's latch (16) constitutes a *movable* locking member. Conversely, as shown in Black's Figures 1 and 2, the latch (16) stays fixed in position. The latch (16) is located on the exterior of the cassette to help secure the lid (12) to the body (14) (col. 2, line 65). Even if it were somehow possible for the latch (16) to be bendable or flexible such a physical characteristic does not constitute movement of the latch, especially movement of the latch between a locked position and an unlocked position. Even if it were somehow possible for the latch (16) to be movable (which it isn't), there is no evidence that the latch could *prevent* the cassette from being opened. Contrarily, unfettered movement of the

latch would enable the cassette to be more easily opened and would provide further evidence of the latch (16) not being a lock. Its exterior location also indicates the latch (16) is not a lock.

Claim 1 also recites an *electronic* lock control to *control movement* of the movable locking member. As previously discussed, the Action's allegation that Black's latch (16) constitutes a lock (especially the recited lock) is not based on any evidence of record. As Black doesn't even teach or suggest a mechanical cassette lock, it would not have been obvious to have used an electronic lock in Black, as alleged. Even if it were somehow possible for the latch (16) to be movable (which it isn't), the Office has provided no teaching or suggestion of modifying Black to electronically control the movement (or explain how such modification could occur).

Claim 1 also recites that the cassette includes a *keypad* thereon. Black also does not teach or suggest a cassette keypad. This is another example of Black lacking more of the recited features and relationships than the Action actually admits. The only teaching of providing a cassette with a keypad is found in Appellants' own disclosure. Nor does Black have any need or desire for a cassette keypad. *In re Mills*, supra. The rejection is based on hindsight reconstruction of Appellants' claimed invention, which is legally impermissible and does not constitute a valid basis for a finding of obviousness. *In re Fritch*, supra.

McGunn cannot alleviate the admitted and further noted deficiencies of Black as it does not teach or suggest the recited features which are not found in Black. McGunn is non analogous art. McGunn is directed to monitoring a safe, not a cassette. A cassette has well-known meaning in the art. McGunn's safe (102) does not constitute a cassette, especially a cassette that is used in an automated banking machine chest (e.g., safe) that has a chest lock for controlling access to the chest. The recited cassette is a far cry from the safe of McGunn.

Furthermore, the Office acknowledges (at Action page 5, lines 12-17) the mobility (or portability) of Black's cassette. One skilled in the art would not have looked to modify Black's portable cassette with McGunn's large in-store stationary safe (col. 1, lines 16-26).

Furthermore, the Office misinterprets the teaching of McGunn. Claim 1 recites that the electronic lock control includes the cassette keypad to receive user input to move the locking member to the unlocked position. There is no evidence that the relied upon keypad (224) of McGunn is used to control the electronic lock (104) of the safe (102). Rather, lock control is carried out with McGunn's remotely located control unit (i.e., a conventional computer 120 with a keypad 122; Figure 1; col. 2, lines 55-60). Even the Action acknowledges that McGunn desires and is directed to "allowing its users remote access." Hence, as McGunn's lock control is remotely carried out with the control unit (120), the safe (102) doesn't include or need a lock control keypad *thereon*. Thus, neither reference teaches or suggests the recited electronic lock control.

Even if it were somehow possible (which it isn't) for McGunn's safe (102) to have a lock control keypad thereon, the safe still would not constitute a *cassette*, especially the recited cassette (that is for use in an automated banking machine chest (e.g., safe) that has its own chest lock for controlling access to the chest). McGunn at best may teach controlling access to the interior of a safe, but not controlling access to the interior of a *cassette* (that is used *in* a safe). That is, even if it were somehow possible for McGunn's safe to somehow have a lock control keypad thereon, it still would not teach or suggest putting a lock control keypad on a cassette that goes inside a chest (e.g., safe) of an automated banking machine (e.g., ATM). Thus, neither reference teaches or suggests a cassette including an electronic lock control keypad. That is, the

references, taken alone or in combination, do not teach or suggest an electronic lock control keypad on a *cassette* that goes inside an automated banking machine *chest*, especially where the keypad "is operative to receive user input to move the locking member to the unlocked position."

The record lacks substantial evidence support for the rejection. *In re Zurko*, supra. *In re Lee*, supra. It follows that the references, taken alone or in combination, cannot teach or suggest the recited features and relationships. The Office has not established a *prima facie* case of obviousness.

It would not have been obvious to one having ordinary skill in the art to have modified Black with the teaching of McGunn as alleged to have produced the recited invention. Even if it were somehow possible (which it isn't) to have modified the Black with McGunn as alleged, the result still would not have produced the recited invention.

Appellants respectfully submit that they have provided sufficient reasons to refute the Office's allegation of *prima facie* obviousness. Thus, Appellants further respectfully submit that the rejection of claim 1 is improper and should be withdrawn.

Comments on the Advisory Action

In the Advisory Action dated June 6, 2005 the Office associates a "latch" with the requirement of a key. This required key (mechanical) control further teaches away from modifying Black to include an electronic lock control.

Claim 45

The references, taken alone or in combination, further do not teach or suggest a cassette keypad that can receive a lock combination comprising a sequence of inputs to cause an electronic lock control to move a locking member to an unlocked position. The Office relies on

the keypad (224) of McGunn. However, McGunn does not teach or suggest that "the keypad (224) is operative to receive a lock combination, wherein the combination comprises a sequence of inputs, and wherein the electronic lock control is operative to move the locking member to the unlocked position responsive to the combination entered into the keypad" (as alleged at Action page 3, last paragraph). McGunn merely states using the "keypad 224 for inputting information at the safe" (col. 3, lines 45-46). McGunn does not describe the "information." Nor is there any evidence that the "information" includes "a lock *combination* comprising a *sequence* of inputs." Where does McGunn teach or suggest that the keypad (224) receives a lock combination sequence to cause movement of a locking member? It follows that the relied upon keypad (224) of McGunn cannot constitute the recited keypad. It further follows that the references do not teach or suggest the recited features and relationships. The Office has not established a *prima facie* showing of obviousness.

Claim 46

Claim 46 depends from claim 45/1. The combined references further do not teach or suggest a cassette including an electronic *programmable* keypad. McGunn does not teach or suggest that the keypad (224) is electronically *programmable* (as alleged at Action page 4, first paragraph). McGunn at best can cause a duress condition to be recorded by entering on a keypad (of the computer) an already predetermined code (col. 4, lines 23-27). Where does McGunn teach or suggest that the keypad (224) itself is electronically programmable? It follows that the relied upon keypad (224) of McGunn cannot constitute the recited "electronic programmable keypad." It further follows that the references do not teach or suggest the recited features and relationships. The Office has not established a *prima facie* showing of obviousness.

Claim 47

Claim 47 depends from claim 46/45/1. The combined references further do not teach or suggest an electronic lock control (which includes an electronic programmable keypad) with the ability to receive input to *change* a lock combination. McGunn does not teach or suggest that the keypad (224) receives input "to change the lock combination" (as alleged at Action page 4, second paragraph). It follows that the relied upon keypad (224) of McGunn further cannot constitute the recited "electronic programmable keypad." It further follows that the references do not teach or suggest the recited features and relationships. The Office has not established a *prima facie* showing of obviousness.

Claim 48

Claim 48 depends from claim 47/46/45/1. The combined references further do not teach or suggest an electronic lock control (which includes an electronic programmable keypad) with the ability to receive input to *change* a lock combination that includes *multiple combinations* of numbers. The references do not teach or suggest multiple combinations of numbers. The Office has not established a *prima facie* showing of obviousness.

Claim 49

For reasons of brevity, Appellants' previous remarks regarding the patentability of claim 1 are incorporated herein by reference. For reasons already discussed, neither Black nor McGunn, taken alone or in combination, teach or suggest the recited cassette, especially a cassette including a lock having a movable locking member. As discussed in more detail herein, the references, taken alone or in combination, also do not teach or suggest the recited electronic lock control.

The references, taken alone or in combination, do not teach or suggest an electronic lock control being operative to move a cassette locking member to an unlocked position so the cassette can be opened, responsive to a lock combination entered into a combination receiving member of the electronic lock control. Nor do the references, taken alone or in combination, teach or suggest that the electronic lock control is further operative to receive input via the combination receiving member to *change the lock combination*.

As previously discussed, the Action admits that Black does not teach or suggest an electronic lock control or any aspect thereof, especially for controlling movement of a cassette locking member. It follows that Black does not teach or suggest any aspect of the recited electronic lock control.

For reasons previously discussed, McGunn also does not teach or suggest an electronic lock control for controlling movement of a cassette locking member. McGunn further does not teach or suggest that "the keypad (224) is operative to receive a lock combination, wherein the combination comprises a sequence of inputs, and wherein the electronic lock control is operative to move the locking member to the unlocked position responsive to the combination entered into the keypad" (as alleged at Action page 3, last paragraph). McGunn merely states using the "keypad 224 for inputting information at the safe" (col. 3, lines 45-46). McGunn does not describe the "information." Nor is there any evidence that the "information" includes "a lock combination comprising a *sequence* of inputs." Where does McGunn teach or suggest that the keypad (224) receives a lock combination sequence to cause movement of a locking member? Rather, lock control is carried out with remote unit (120). It follows that the relied upon keypad (224) of McGunn cannot constitute the recited "combination receiving member" of claim 49.

Furthermore, where does McGunn teach or suggest that the keypad (224) is electronically *programmable* (as alleged at Action page 4, first paragraph)? McGunn at best can cause a duress condition to be recorded by entering an already predetermined code on a keypad (of the computer) (col. 4, lines 23-27). Also, where does McGunn teach or suggest that the keypad (224) receives input "to *change* the lock combination" (as alleged at Action page 4, second paragraph)? McGunn does not teach or suggest the recited features and relationships. It follows that the relied upon keypad (224) of McGunn further cannot constitute the recited "electronic programmable combination receiving member."

Thus, the references, taken alone or in combination, do not teach or suggest the recited apparatus. The Office has not established a *prima facie* case of obviousness. One having ordinary skill in the art would not have found it obvious to have modified Black with the teaching of McGunn as alleged to have produced the recited invention.

Claim 53

Claim 53 depends from claim 45/1. The combined references further do not teach or suggest a cassette keypad including plural buttons, where the keypad can receive a lock combination via the buttons. As previously discussed with regard to claim 45, the relied upon keypad (224) of McGunn does not constitute the recited cassette keypad. McGunn merely states that the keypad (224) is used for "inputting information at the safe" (col. 3, lines 45-46). There isn't any teaching or suggestion that this "information" includes "a lock *combination*." Nor is there any evidence that the keypad (224) includes *plural* buttons. Where does McGunn teach or suggest that the keypad (224) has a plurality of *buttons*?

Nor has the Office shown that all known keypads comprise plural buttons. To establish inherency the Office must prove through citation to prior art that the feature is “necessarily present” in McGunn. Inherency may not be established based on probabilities or possibilities. It is plainly improper (which is the current situation) to imply inherency based merely on the (speculative) possibility that a particular disclosure might be capable of use in a manner not specifically disclosed. *In re Robertson*, 169 F.3d 743, 49 USPQ2d 1949 (Fed. Cir. 1999). It follows that the Office has not established a *prima facie* case of obviousness.

Claim 54

Claim 54 depends from claim 53/45/1. The combined references further do not teach or suggest a cassette keypad including an LED adjacent each of a plurality of buttons. McGunn does not teach or suggest LED (or keypad buttons). The Action relies on Black for teaching "an array of LED for indicating a condition of the media cassette" (paragraph bridging pages 4 and 5). The Action also states that "It is well-known in the art, that an LED is used in an electronic circuit to indicate a status of an input or an output."

Black uses an LED to indicate the status (size) of an input (media stack). However, this is no evidence of a cassette keypad including an LED adjacent each of a plurality of buttons. Black has no cassette keypad buttons. Nor does Black have any desire or need for cassette keypad buttons. The record lacks evidentiary support for a cassette keypad having an LED adjacent each of a plurality of buttons. That is, the record lacks substantial evidence support for the rejection. *In re Zurko*, supra. *In re Lee*, supra. The Office has not established a *prima facie* case of obviousness.

Claim 55

Claim 55 depends from claim 53/45/1. The combined references further do not teach or suggest a cassette keypad including an *LCD* panel. The Action relies on McGunn for teaching a "cassette includes an LCD panel (display 223)". As previously discussed, McGunn's safe (102), which includes the display (223), is not a cassette. Regardless, McGunn does not teach or suggest that the display (223) has an LCD panel or is an LCD type of display. Again, the Office has not established a *prima facie* case of obviousness.

Claim 56

Claim 56 depends from claim 45/1. As previously discussed, the combined references do not teach or suggest the recited cassette (or the electronic lock control). It follows that the combined references cannot teach or suggest an automated banking machine chest having the cassette therein. The Office has not established a *prima facie* case of obviousness.

Claim 57

Claim 57 depends from claim 56/45/1. As previously discussed (e.g., claim 45 remarks), the combined references do not teach or suggest a cassette keypad that can receive a lock combination to cause unlocking. That is, the references do not teach or suggest even a single cassette with a lock combination. It follows that the combined references cannot teach or suggest a plurality of cassettes, each with a different combination. The Office has not established a *prima facie* case of obviousness.

Claim 58

For reasons of brevity, Appellants' previous remarks regarding the patentability of claims 1 and 49 are incorporated herein by reference. For reasons previously discussed, the references,

taken alone or in combination, do not teach or suggest the recited method. For example, the references, taken alone or in combination, do not teach or suggest providing an automated banking machine media cassette including a lock and an electronic lock control. Nor do the references teach or suggest unlocking the cassette responsive to receiving an inputted lock combination with the electronic lock control. Where do the references even mention inputting a lock combination? The Office has not established *a prima facie* case of obviousness. Nor would it have been obvious to have modified Black with McGunn as alleged to have produced the recited invention.

Claim 59

Claim 59 depends from claim 58. As previously discussed (e.g., claim 45 remarks), the combined references do not teach or suggest a cassette keypad for receiving a lock combination to cause unlocking of the cassette. The Office has not established *a prima facie* case of obviousness.

Claim 60

Claim 60 depends from claim 58. As previously discussed (e.g., claim 53 and claim 54 remarks), the combined references do not teach or suggest a cassette keypad having plural buttons, with an LED adjacent each button. Nor do the references teach or suggest using the buttons for receiving a lock combination to cause unlocking of the cassette. The Office has not established *a prima facie* case of obviousness.

Claim 61

Claim 61 depends from claim 58. As previously discussed (e.g., claim 46 and claim 47 remarks), the combined references do not teach or suggest a cassette including an electronic

programmable keypad. Nor do the references teach or suggest changing a lock combination via the electronic programmable keypad. The Office has not established *a prima facie* case of obviousness.

Claim 62

Claim 62 depends from claim 61/58. As previously discussed (e.g., claim 56 and claim 57 remarks), the combined references do not teach or suggest changing the combination of plural automated banking machine cassettes so that each cassette has a different combination, and inserting each cassette into the same machine, with at least one cassette inserted into a machine chest. Again, the Office has not established a *prima facie* case of obviousness.

The Claims Are Not Obvious Over Black in view of McGunn and Kuel

Claims 50-52 and 63 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Black in view of McGunn and Kuel.

The (final) Action (on page 5) admits that Black/McGunn do not teach or suggest "a power source being a rechargeable battery". The Action relies on Kuel as allegedly teaching an electronic lock (33) attached to a briefcase that has a rechargeable battery (cell 32). The Office asserts that Kuel's battery (32) provides a power source having portability and extended life. The Office alleges that it would be obvious to add a portable and rechargeable power source to Black/McGunn "for the purpose of promoting mobility to . . . the media cassette of Black".

Appellants traverse the rejections on the grounds that Appellants' claims recite features and relationships which are neither disclosed nor suggested in the prior art, and because there is no teaching, suggestion, or motivation cited so as to produce Appellants' invention.

Claim 50

Claim 50 depends from claim 45/1. The references, taken alone or in combination, do not teach or suggest an electronic lock control for a cassette, where the electronic lock control includes a battery.

The Action alleges that it would be obvious to add Kuel's battery arrangement to Black's currency cassette. The Appellants respectfully disagree. Kuel teaches that when a briefcase lock is improperly operated then high voltage is generated on the surface of the briefcase (e.g., Abstract). Thus, Kuel is directed to using the battery (cell 32) to shock a person that gave an improper input to the lock. One skilled in the art would not have looked to modify Black's currency cassette with Kuel's battery arrangement. A briefcase which is opened by a single private owner is a far cry from a currency cassette which can be dealt with by different company handlers (which would increase the risk of shock). For medical and legal reasons it would not have been obvious to have modified (if somehow possible) Black's currency cassette to have included Kuel's battery arrangement, as alleged. Conversely, the risk of inadvertent shock teaches away from the alleged modification. The Office has not established a *prima facie* case of obviousness.

Claim 51

Claim 51 depends from claim 50/45/1. The references, taken alone or in combination, further do not teach or suggest an electronic lock control battery that can be charged in a non-

contacting manner. Pages 8 and 9 of Kuel do not teach or suggest that the battery (32) "is recharged via an inductive charging port," as alleged. The Office has not established *a prima facie* case of obviousness.

Claim 52

Claim 52 depends from claim 51/50/45/1. The references, taken alone or in combination, further do not teach or suggest a cassette that includes an inductive charging port so an electronic lock control battery can be recharged. Again, Kuel does not teach or suggest that the battery (32) "is recharged via an inductive charging port," as alleged. The Office has not established *a prima facie* case of obviousness.

Claim 63

Claim 63 depends from claim 58. The references, taken alone or in combination, further do not teach or suggest recharging an electronic lock control battery via an inductive charging port of a cassette. Kuel does not teach or suggest recharging the battery (32) via an inductive charging port, especially an inductive charging port of a cassette. Again, the Office has not established *a prima facie* case of obviousness.

CONCLUSION

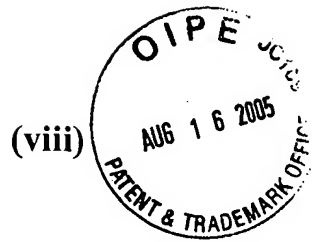
Each of Appellants' pending claims specifically recites features and relationships that are neither disclosed nor suggested in any of the applied prior art. Furthermore, the applied prior art is devoid of any teaching, suggestion, or motivation for combining features of the applied prior art so as to produce the recited invention. For these reasons it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,



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CLAIMS APPENDIX

1. An apparatus including:

a cassette,

wherein the cassette is adapted for use in an automated banking machine chest having a chest lock that controls access to the chest,

wherein the cassette is operative to hold media therein,

wherein the cassette includes a lock,

wherein the lock includes a movable locking member,

wherein the locking member is movable between a locked position and an unlocked position,

wherein with the locking member in the locked position the cassette is prevented from being opened,

wherein with the locking member in the unlocked position the cassette is operative to be opened,

wherein the cassette includes a keypad thereon,

an electronic lock control,

wherein the electronic lock control is operative to control movement of the locking member,

wherein the electronic lock control includes the keypad,

wherein the keypad is operative to receive user input to move the locking member to the unlocked position.

45. The apparatus according to claim 1 wherein the keypad is operative to receive a lock combination, wherein the combination comprises a sequence of inputs, and wherein the electronic lock control is operative to move the locking member to the unlocked position responsive to the combination entered into the keypad.
46. The apparatus according to claim 45 wherein the keypad includes an electronic programmable keypad.

47. The apparatus according to claim 46 wherein the electronic lock control is operative to receive input to change the lock combination.
48. The apparatus according to claim 47 wherein the combination includes multiple combinations of numbers.
49. Apparatus including:
- a cassette,
 - wherein the cassette is adapted for use in an automated banking machine,
 - wherein the cassette is operative to hold media therein,
 - wherein the cassette includes a lock,
 - wherein the lock includes a movable locking member,
 - wherein the locking member is movable between a locked position and an unlocked position,

wherein with the locking member in the locked position the cassette is prevented from being opened,

wherein with the locking member in the unlocked position the cassette is operative to be opened,

an electronic lock control,

wherein the electronic lock control includes an electronic programmable combination receiving member,

wherein the combination receiving member is operative to receive a lock combination comprising a sequence of inputs,

wherein the electronic lock control is operative to move the locking member to the unlocked position responsive to the combination entered into the combination receiving member,

wherein the electronic lock control is operative to receive input via the combination receiving member to change the lock combination.

50. The apparatus according to claim 45 wherein the electronic lock control includes a battery.
51. The apparatus according to claim 50 wherein the battery can be charged in a non-contacting manner.
52. The apparatus according to claim 51 wherein the cassette includes an inductive charging port, and wherein the battery can be recharged via the inductive charging port.
53. The apparatus according to claim 45 wherein the keypad includes plural buttons, wherein the keypad is operative to receive the combination via the buttons.
54. The apparatus according to claim 53 wherein the keypad includes an LED adjacent each button.
55. The apparatus according to claim 53 wherein the cassette includes an LCD panel.
56. The apparatus according to claim 45 wherein the apparatus further includes an automated banking machine including a chest having a chest lock that controls access to the chest, wherein the chest has the cassette therein.

57. The apparatus according to claim 56 wherein the automated banking machine comprises an automated teller machine (ATM), wherein the chest includes a plurality of cassettes containing currency, wherein each cassette includes a different combination.
58. A method including:
- (a) providing an automated banking machine media cassette, wherein the cassette includes a lock and an electronic lock control, wherein the electronic lock control is operative to control unlocking of the cassette, wherein the cassette is adapted for use in an automated banking machine chest having a chest lock that controls access to the chest;
 - (b) receiving with the electronic lock control an inputted lock combination;
 - (c) unlocking the cassette responsive to (b).
59. The method according to claim 58 wherein the electronic lock control includes a keypad, wherein the cassette includes the keypad thereon, and wherein (b) includes receiving the combination via the keypad.

60. The method according to claim 58 wherein the electronic lock control includes a keypad, wherein the keypad includes plural buttons, and wherein the keypad includes an LED adjacent each button, and wherein (b) includes receiving the combination via the buttons.
61. The method according to claim 58 wherein the electronic lock control includes an electronic programmable keypad, and further including
- (d) changing the combination via the keypad.
62. The method according to claim 61 wherein (a) includes providing plural automated banking machine media cassettes, wherein (d) includes changing the combination of each cassette so that each cassette has a different combination, and further including
- (e) inserting each cassette into the same automated banking machine, wherein the automated banking machine includes a chest having a chest lock that controls access to the chest, wherein at least one cassette is inserted into the chest.
63. The method according to claim 58 wherein the electronic lock control includes a battery, wherein the cassette includes an inductive charging port, and further including
- (d) recharging the battery via the inductive charging port.

(ix)



EVIDENCE APPENDIX

- 1.) Merriam-Webster OnLine Dictionary definition of "latch".
- 2.) USPTO Classification Definitions, class 292, page 292-1, December 2000 edition.



Merriam-Webster OnLine

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Company Information

Merriam-Webster Online Dictionary

4 entries found for latch.
To select an entry, click on it.

[latch\[1,intransitive verb\]](#) [Go](#)
[latch\[2,noun\]](#)
[latch\[3,transitive verb\]](#)
[night latch](#)

Main Entry: ²latch

Function: *noun*

: any of various devices in which mating mechanical parts engage to fasten but usually not to lock something:

a : a fastener (as for a door) consisting essentially of a pivoted bar that falls into a notch **b** : a fastener (as for a door) in which a spring slides a bolt into a hole; *also* : **NIGHT LATCH**

For **More Information on "latch"** go to Britannica.com

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CLASS 292, CLOSURE FASTENERS**SECTION I - CLASS DEFINITION**

This class includes all bolt elements and latching devices, not combined with lock structure, for securing in closed or adjusted position any closure element, such as a door, window, gate, trunk-lid, box-cover, bag-frame, or the like.

SECTION II - REFERENCES TO OTHER CLASSES**SEE OR SEARCH CLASS:**

- 49, Movable or Removable Closures, appropriate subclasses, particularly subclasses 276+ for closure-fasteners when combined in or with closure-operators, and this class (292) for devices for starting a closure open, or drawing it from a substantially closed to a fully closed position, wherein such operation is accomplished by cooperating surfaces on the latch bolts and keepers which function during movement of the bolts into or out of latching position relative to the keepers.
- 70, Locks, for key or combination locking devices.
- 99, Foods and Beverages: Apparatus, subclasses 349+ for fasteners combined with food compacting followers and subclass 402 for fasteners associated with hinged bread toaster grids.
- 109, Safes, Bank Protection, or a Related Device, subclasses 62+ for devices for safes and vaults commonly known as pressure mechanisms, the function of which is to cam the door tight in its jamb, and which usually serve to crack the door to an ajar position, and subclass 63.5 for devices for receptacles which render the closure fastener thereof ineffective when the receptacle is in a condition of abnormal use.
- 220, Receptacles, subclasses 315+ for receptacle closure fasteners.
- 221, Article Dispensing, appropriate subclasses for article dispensing devices not otherwise provided for, having means to retain mechanical article releasing closures or article ejecting discharge assistants in article dispensing or nonarticle dispensing position, and see particularly subclasses 151+ and 154 for article dispensers having means for blocking or disabling ejector or releaser means and lock, latch or seal structures for supply containers and/or their supports, respectively.

- 222, Dispensing, appropriate subclasses, for dispensing devices having means to latch or secure closures, valves and the movable parts of discharge assistants in a desired position, especially subclass 44 for a combined indicator and detent, and subclasses 153.05+ for fastening seals for dispensing devices.
- 411, Expanded, Threaded, Driven, Headed, Tool-Deformed, or Locked-Threaded Fastener, for permanent securing devices, such as bolts, nuts, screws, rivets, and the like.

SUBCLASSES

- 1 This subclass is indented under the class definition. Closure-fastening devices not otherwise classified.

1.5 ADJUSTABLE BACKSET:

This subclass is indented under the class definition. Device having means for varying the distance from the faceplate at the edge of the closure to the center of the latch retracting means, (e.g., handle).

SEE OR SEARCH THIS CLASS, SUBCLASS:

341.18, for adjustable keepers.

Fig. 60, for devices with provisions to adjust the bolt-throw.

SEE OR SEARCH CLASS:

70, Locks, subclass 461, for adjustment provisions for key or combination locking devices.

- 2 This subclass is indented under the class definition. Subject matter comprising bolt elements.

SEE OR SEARCH CLASS:

70, Locks, appropriate subclasses for bolt structures which are controlled by key or combination devices.

- 3 This subclass is indented under subclass 2. A plurality of bolt elements which are not mere duplicates and independent in operation.

- 4 This subclass is indented under subclass 3. Devices at least one of which has a sliding and a rotary motion on a common axis to latching position.

(x)

RELATED PROCEEDINGS APPENDIX

(None)



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